

**OKLAHOMA DEPARTMENT OF ENVIRONMENTAL QUALITY
ENVIRONMENTAL COMPLAINTS AND LOCAL SERVICES DIVISION**

**IN THE MATTER OF:
GEORGE BLAKENEY d/b/a
REAL ESTATE REMEDIATION, LLC
a/k/a BLAKENEY COMPANY, INC.,**

CASE NO. 15-054

ADMINISTRATIVE COMPLIANCE ORDER

This Administrative Compliance Order (“Order”) is issued under the authority vested in the Executive Director of the Oklahoma Department of Environmental Quality (“DEQ”) by 27A O.S. § 2-3-502. This Order relates to violations of the Oklahoma Environmental Quality Code, specifically 27A O.S. § 2-10-301 *et seq.*, and at Oklahoma Administrative Code (OAC) 252:515, *Management of Solid Waste*. This Order supersedes and closes Notice of Violation No. 14-ECLS-NOV-101 (“NOV”), dated November 3, 2014.

FINDINGS OF FACT

1. George Blakeney, d/b/a Real Estate Remediation LLC, a/k/a Blakeney Co. Inc., (“Respondent”) is the owner of property described as:

The South Half of the Northwest Quarter and the North Half of the Southwest Quarter of Section 24, Township 28 North, Range 22 East of the Indian Base and Meridian, Ottawa County, Oklahoma.

2. The property described above is the former BF Goodrich Tire Plant (“Facility”).

3. Respondent is an Alabama LLC registered to do business in Oklahoma. Respondent is demolishing buildings located at the Facility and salvaging the metal. Respondent's stated intent is to make the Facility commercially viable once the Facility is remediated.

4. On June 11, 2014, Respondent received a permit for the demolition of a portion of the Facility from the City of Miami, Oklahoma. Included in Respondent's permit application, a cleanup plan was submitted which stated that Respondent would be disposing of the non-salvaged material at a Listed Landfill, while maintaining receipts and daily reports of the disposal.

5. On October 21, 2014, DEQ Environmental Complaints and Local Services ("ECLS") Division performed an inspection at the Facility. ECLS observed that none of the solid waste had been disposed of at a permitted landfill. Specifically, uncontaminated rock, dirt, concrete, bricks or solidified asphalt ("non-regulated material") does not require a solid waste permit for disposal. However, Ottawa County District Court Case No. CJ-95-641 requires that Respondent demonstrate to DEQ that the non-regulated material can be lawfully disposed of on-site. DEQ has informed Respondent that upon inspection and approval by DEQ, non-regulated material may be disposed of on-site in the various basements and openings across the Facility. The remaining wallboard, tile, roofing material, and other materials ("regulated solid waste") is required to be disposed of at a permitted landfill within ten (10) days of demolition or else the Facility is required to obtain a solid waste permit for the storage of solid waste.

6. On October 27, 2014, ECLS again inspected the Facility and observed that none of the regulated solid waste had been removed and disposed of at a permitted landfill. ECLS

issued a warning letter to Respondent informing them to begin disposal of the regulated solid waste within fifteen (15) days at a permitted landfill.

7. On November 3, 2014, ECLS, after observing that no regulated solid waste had been disposed of at a permitted landfill, issued NOV No. 14-ECLS-NOV-101 for the open dumping of solid waste. Respondent received the NOV on December 22, 2014, as evidenced by a return receipt.

8. On November 9, 2014, Respondent submitted a disposal plan to DEQ which stated the intent to remove the regulated solid waste.

9. On January 28, 2015, Respondent and representatives from DEQ met at the Facility for a tour and to discuss potential Consent Order terms.

10. On February 2, 2015, DEQ sent Respondent a proposed Consent Order (“CO”).

11. On February 11, 2015, DEQ received word through the local ECLS personnel that Respondent would not be signing the CO.

12. On February 9, 11, and 12th, 2015, Respondent hauled loads of regulated waste to a disposal facility in Kansas. Respondent hauled a total of three (3) loads of regulated waste.

13. On February 12, 2015, DEQ sent an email to Respondent imploring them to have their Attorney contact DEQ to discuss the proposed CO.

14. From February 12th to the date of execution of this Order, Respondent has not taken any additional loads of regulated waste to a permitted disposal facility. Respondent has repeatedly stated that equipment has been broken as the reason for not hauling material to the landfill. However, metal recycling operations have continued during this time.

15. On or about March 12, 2015, DEQ approved the disposal of non-regulated waste into the front basement of the Facility.

16. On March 16, 2015, DEQ confirmed that Respondent had sealed the “oven building” to prevent exposure to asbestos located on the second floor. Respondent was informed of the requirement to place Asbestos warning placards on the building, to date Respondent has not yet placed the required Asbestos placards.

17. On April 17, 2015, DEQ received notice from the disposal facility in Kansas that Respondent had not paid their disposal bill for the loads taken in February.

18. To date, Respondent has failed to sign the proposed CO and has ceased taking regulated waste to any permitted disposal facility. Additionally, Respondent has not sought permission to dispose of non-regulated waste since approximately late March.

CONCLUSIONS OF LAW

19. DEQ has regulatory jurisdiction and authority in this matter, and Respondent is subject to the jurisdiction and authority of the DEQ under the OKLAHOMA SOLID WASTE MANAGEMENT ACT, 27A O.S. §§ 2-10-101 *et seq.*, and the rules promulgated thereunder at OAC Title 252, Chapter 515, *Management of Solid Waste*.

20. 27A O.S. § 2-10-103 defines the following terms:

"Disposal site" means any place, including, but not limited to, a transfer station or a roofing material recycling facility, at which solid waste is dumped, abandoned, or accepted or disposed of by incineration, land filling, composting, shredding, compaction, baling or any other method or by processing by pyrolysis, resource recovery or any other method, technique or process designed to change the physical, chemical or biological character or composition of any solid waste so as to render such waste safe or nonhazardous, amenable to transport, recovery or storage or reduced in volume. A disposal site shall not include a manufacturing facility which processes scrap materials which have been separated for collection and processing as industrial raw materials

"Solid waste" means all putrescible and nonputrescible refuse in solid, semisolid, or liquid form including, but not limited to, garbage, rubbish, ashes or incinerator residue, street refuse, dead animals, demolition wastes, construction wastes, roofing material, solid or semisolid commercial and industrial wastes including explosives, biomedical wastes, chemical wastes, herbicide and pesticide wastes...

21. 27A O.S. § 2-10-301(A) states:

1. No person shall dispose of solid waste at any site or facility other than a site or facility for which a permit for solid or hazardous waste disposal has been issued by the Department;
2. No person shall own or operate a site or facility at which solid waste is disposed other than a site or facility for which a permit for solid or hazardous waste disposal has been issued by the Department; and
3. No person shall knowingly transport solid waste to an unpermitted site or facility.

22. OAC 252:515-3-1 (3) states:

- (a) **Solid waste disposal facilities.** The following solid waste disposal facilities are subject to the requirements of this Subchapter and require a solid waste permit from DEQ prior to construction and/or operation:
 - (3) facilities used for the storage of solid waste for longer than 10 days;

DEQ alleges Respondent is in violation of 27A O.S. § 2-10-301(A) and OAC 252:515-3-1(3) for owning or operating an unpermitted disposal site by failing to dispose of regulated solid waste as described in Findings of Fact paragraphs 5, 6, and 7.

23. 27A O.S. § 2-6-105 states:

A. It shall be unlawful for any person to cause pollution of any waters of the state or to place or cause to be placed any wastes in a location where they are likely to cause pollution of any air, land or waters of the state. Any such action is hereby declared to be a public nuisance.

B. If the Executive Director finds that any of the air, land or waters of the state have been, or are being, polluted, the Executive Director shall make an order requiring such pollution to cease within a reasonable time, or requiring such manner of treatment or of disposition of the sewage or other polluting material as may in his

judgment be necessary to prevent further pollution. It shall be the duty of the person to whom such order is directed to fully comply with the order of the Executive Director.

DEQ alleges Respondent is in violation of 27A O.S. § 2-6-105(A) for placing wastes in a location where they are likely to cause pollution. Specifically, Respondent's failure to dispose of the regulated solid waste has left the waste uncovered and exposed to the elements, a location where they are likely to cause pollution.

ORDER TO COMPLY

24. Based on the Findings of Fact and Conclusions of Law, it is ordered by the Executive Director as follows:

- a. Respondents shall, within fifteen (15) days of receiving this Order, implement the following:
 - (1) Respondent shall begin hauling the regulated solid waste to a permitted disposal site. Respondent will maintain receipts or weigh tickets from the disposal and shall present them to DEQ upon request for inspection. Respondent shall have all regulated material disposed of at a permitted disposal facility no later than June 1, 2015.
 - (2) Respondent shall separate all regulated material from non-regulated material into separate and distinct piles no later than thirty (30) days from the execution of this Order.
 - (3) Respondent shall, once the basements have been filled with non-regulated material, encapsulate the top of the basements with at least eight (8) inches of

concrete and grade it to ground level. Respondent shall have the basements encapsulated within thirty (30) days of filling the basements.

- (4) Respondent shall have all basements and openings (including those that were not filled with non-regulated waste) sealed with at least eight (8) inches of concrete and grade it to ground level no later than December 1, 2015.
- (5) Respondent shall file a deed notice in accordance with 27A O.S. § 2-7-123 on the title of the property for areas where asbestos has been encapsulated. Respondent shall submit the notice to DEQ for approval. Once DEQ has approved the deed notice, Respondent shall then record the notice. Respondent shall submit the proposed deed notice for approval thirty (30) days after all requirements of this Order have been fulfilled.
- (6) Respondent will ensure its operations comply with the Oklahoma Department of Labor regulations regarding Asbestos (including, but not limited to, the placement of Asbestos placards).
- (7) Respondent shall comply with and implement the provisions found in OAC 252:100-29-3 for the suppression and control of fugitive dust.

PENALTIES

25. The Oklahoma Environmental Quality Code, 27A O.S. §§ 2-3-502(B) and (K), authorizes DEQ to seek penalties of up to Ten Thousand Dollars (\$10,000.00) per day for each violation of the associated rules. Based on the facts and circumstances of this case, DEQ assesses a total penalty of TEN THOUSAND DOLLARS (\$10,000.00) for the violations cited in this Administrative Compliance Order. Respondent shall submit payment for the penalty within

thirty (30) days of receipt of this Administrative Compliance Order. Payment shall be by check or money order payable to the Oklahoma Department of Environmental Quality (or ODEQ), showing the Case Number of this Administrative Compliance Order, and delivered to:

Accounts Receivable
Financial & Human Resources Management
Department of Environmental Quality
P.O. Box 2036
Oklahoma City, OK 73101-2036

26. If Respondent fails to comply with this Order, Respondent is subject to an additional penalty of ONE THOUSAND DOLLARS (\$1000.00) for each day of noncompliance with this Order.

GENERAL PROVISIONS

27. This Order is in addition to any other remedies provided by law and does not preclude DEQ from seeking other relief as appropriate.

NOTICE OF OPPORTUNITY TO REQUEST HEARING

28. This Order is entered under the authority of 27A O.S. § 2-3-502. This Order will automatically become final unless, no later than fifteen (15) days after it is served, Respondent submits to DEQ a written request to review this Order. Such request for hearing shall be directed to:

Administrative Hearing Clerk
Department of Environmental Quality
P. O. Box 1677
Oklahoma City, OK 73101-1677

The request for hearing must specify the nature of the matters within this Order that Respondent wishes to have reviewed at the hearing.

29. If a hearing is requested, it will be scheduled promptly and Respondent will be notified of the time and place of the hearing. The scope of the hearing will be limited to the matters raised in the request for hearing, unless otherwise permitted by the Administrative Law Judge for good cause. The hearing will be conducted in accordance with the Oklahoma Administrative Procedures Act. The Administrative Law Judge may schedule pre-hearing conferences as he or she deems necessary.

30. Respondent may be present and/or represented by an attorney at the hearing. Respondent or counsel may present evidence and argument to show why this Order should be set aside or modified.

31. On the basis of the hearing record, the Executive Director of DEQ will sustain, set aside or modify the Order.

NOTICE OF OPPORTUNITY TO DISCUSS SETTLEMENT

32. Regardless of whether Respondent requests a hearing, Respondent may confer with the Environmental Complaints and Local Services Division regarding a settlement. A settlement conference may be pursued simultaneously with, or as an alternative to, the hearing process, but **a request for a settlement conference does not extend the 15-day period to request a hearing.** Respondent may be present and/or represented by an attorney at a settlement conference.

33. Any settlement reached by the parties shall be finalized in the form of a written Consent Order signed by Respondent and DEQ Executive Director. The issuance of a Consent Order waives Respondent's right to pursue a hearing on any issue covered by the Consent Order.

34. If Respondent wishes to discuss settlement, Respondent should contact Trevor Hammons, DEQ attorney assigned to this case, at (405) 702-7189.

**OKLAHOMA DEPARTMENT
OF ENVIRONMENTAL QUALITY:**

SCOTT A. THOMPSON
EXECUTIVE DIRECTOR

DATE

CERTIFICATE OF MAILING

I certify that on this _____ day of _____, 2015, I mailed a true and correct copy of this Administrative Compliance Order to:

George Blakeney
Real Estate Remediation, LLC a/k/a Blakeney Company, Inc.
3519 Greensboro Avenue
Tuscaloosa, AL 35401

Debbie Ray
Administrative Hearing Clerk
Department of Environmental Quality
P. O. Box 1677
Oklahoma City, OK 73101-1677

cc: Melissa Goree-ECLS
Enforcement File-Central Records